

IC 32-17-5

Chapter 5. Partition Investment Limitations

IC 32-17-5-1

Application of chapter

Sec. 1. This chapter applies to a person that is entitled to:

- (1) an estate in real estate for life or years;
- (2) an estate tail;
- (3) a fee simple;
- (4) a conditional, base, or qualified fee;
- (5) a particular, limited, or conditional estate in real estate; or
- (6) an interest in personal property;

and any other person is entitled to a vested or contingent remainder, an executory devise, or any other vested or contingent interest in the same real estate or personal property.

As added by P.L.2-2002, SEC.2.

IC 32-17-5-2

Decree selling, exchanging, or leasing property

Sec. 2. On application of a party in interest described in section 1 of this chapter, the circuit court may, if all the parties are:

- (1) parties to the proceedings and before the court; or
- (2) properly served with notice as in other civil actions;

decree a sale, exchange, or lease of the real estate, or sale or exchange of the personal property, if the court considers a sale, exchange, or lease to be advantageous to the parties concerned.

As added by P.L.2-2002, SEC.2.

IC 32-17-5-3

Investment of proceeds

Sec. 3. If the court decrees a sale, exchange, or lease under section 2 of this chapter, the court shall direct the investment of the proceeds of the:

- (1) sale;
- (2) terms of the instrument of exchange or lease; or
- (3) limitations of the reversion and rents and income;

so as to inure as by the original grant, devise, or condition to the use of the same parties who would be entitled to the property sold or leased or the income of the personal property.

As added by P.L.2-2002, SEC.2.

IC 32-17-5-4

Effect of decree

Sec. 4. If all persons in being are parties who would be entitled to the property sold or leased or the income of the personal property if the contingency had happened at the date of the commencement of the proceedings, a decree under section 2 of this chapter is binding on any person that claims an interest in the real estate or personal property:

- (1) under any party to the decree;

(2) under any person from whom a party to the decree claims;
or

(3) from, under, or by the original:

(A) deed;

(B) will; or

(C) instrument;

by which the particular, limited, or conditional estate with remainders or executory devisees was created.

As added by P.L.2-2002, SEC.2.

IC 32-17-5-5

Jurisdiction; guardian ad litem

Sec. 5. (a) The circuit court:

(1) of the county in which a will, deed, or instrument:

(A) is probated or recorded; and

(B) under or from which a party claims or derives the party's interest in the real or personal property that is the subject of the will, deed, or instrument; or

(2) that has jurisdiction of a trust from which the property is derived;

has jurisdiction to hear and determine the rights of the parties under this chapter. Proceedings under this chapter are commenced by complaint as in other civil actions.

(b) For an infant defendant who is a member of the class for whom property that is the subject of a proceeding under this chapter is held:

(1) in reversion;

(2) in remainder; or

(3) upon condition;

the court shall appoint a special guardian ad litem who is not related to any of the parties interested in the property. The living members stand for and represent the whole class, and the parties stand for and represent the full title and whole interest in the property.

As added by P.L.2-2002, SEC.2.

IC 32-17-5-6

Personal property; investment in securities

Sec. 6. If the proceeds under section 3 of this chapter are invested in personal property, the court may, in the court's decree, direct additional investment:

(1) in securities; and

(2) upon terms and conditions;

that the court considers to be in the best interests of the parties.

As added by P.L.2-2002, SEC.2.